

We republish on our first page, from our Sunday edition, the news respecting the Charleston Convention and the great prize fight, for the benefit of our country subscribers.

Are Street Railroads a Monopoly of Public Thoroughfares?

In the state of Kentucky in which the power of the City Council to license street railroads is suspended by the opinion of the Superior Court, which oscillate between the right to authorize a single track and no right to authorize any, with a fair prospect of coming out at the latter end of the horn, the question whether the permission to lay a railway track in a street is an exclusive occupancy of it, and therefore a monopoly of a public highway, is disposed of by the Court as if there could be no controversy on that.

In his last opinion Judge Storer said that if it were not that the companies had expended large sums of money on these lines, he would have no hesitation in saying that a Court of Equity would enjoin the City Council from granting any permit to use these roads. It will hardly be affirmed as a legal principle, even in the Superior Court, that a right to the perversion of a highway from its purpose, and to exclude the public from its use, can be acquired by an expenditure of money, and it will be seen that according to Superior-Court law, these railroads and large investments are suspended in a very dubious condition.

The Court assumed that the laying of a track in a street or an exclusive occupancy of it, a like easy assumption of fact with that which distinguished its opinion in the case of Hoses and others against the Ohio and Mississippi Railroad Company, in which it was assumed, as a premise, that a railway track on Front-street would cut off the conveyance of goods from the city to the river. In his last opinion on the Pendleton Street Railway case, Judge Storer said:

"As a question of power it seemed to him there was no doubt that a municipal corporation having the control and supervision of the public highways, and bound to keep them open and in repair, have no power to grant to any number of individuals or to a body corporate, any right in its nature exclusive, that tends to a monopoly, or that has in it a greater or broader claim to enjoyment than every other individual has. It cannot be doubted for a moment that the grant of privilege to occupy the streets of the city by a railway is inconsistent with the right to use on the part of others to whom the power of competition is not left. A mode is permitted of occupancy which is directly opposed to the ordinary use and enjoyment of the thoroughfare, inconsistent with the claim of a man to drive a stage, a wagon, or an ordinary vehicle for pleasure, because all are required to give way, to occupy a secondary position. A very necessity of the right conferred is that the Council shall give a legal right to the Company to be protected, and, hence, in passing the ordinance, the City Council have declared that these Companies shall have the exclusive occupancy of the track while their cars are running, and even go so far as to even lay a penalty on the driver of a stage or an ordinary vehicle, if he shall obstruct the road. This is a necessity, and no fault can be found with it as a matter of legislation, if the right exists. But this necessity proves that the grant itself is inconsistent with the ordinary right of every citizen."

It will hardly be denied that the City Council have the power to regulate the travel upon the streets to the end of the greatest public convenience, yet, under this theory any regulations are in the nature of exclusive privileges, and therefore demand the interference of the Court. The Council, for public convenience, have ordered that the cars shall take the center of the street, and that other vehicles shall not obstruct them. If this is a monopoly, and inconsistent with the free use of the street by others, so also is the regulation that vehicles shall take the right hand side. It equally gives "a broader claim" to vehicles going in one direction: "it is in its nature exclusive" and one-sided; it is "inconsistent with the free use of the street" by vehicles going in an opposite direction; "its very necessity is that it shall be legally protected;" and that penalties shall be laid on drivers of vehicles who shall obstruct this exclusive occupancy of the right-hand side of the street.

It will readily be seen that the Superior Court has entered upon a pretty extensive field of labor. The principle laid down by the learned Judge is nothing else than that any regulations of the use of the streets which are made to promote general convenience, are grants of exclusive privileges. It is not alleged that the rails themselves are inconsistent with the equal use of the street by other vehicles, but the requirement that other vehicles shall turn out and give the cars the center in passing, constitutes the exclusive privilege. The right of the cars to the use of the streets is not denied; the opinion of the Court is based solely on the requirement that other vehicles shall turn out and give the cars the center when they meet. Yet it will be noticed, outside the Superior Court, that this regulation is intended for the general convenience. The regulation is just as much an exclusive privilege of other vehicles to the sides of the street, driving the cars to the center and to "a secondary position," as it is to the cars.

Furthermore, the whole ground of the Court's action is based on the exceptional regulation of the Council, assigning to cars a position on the streets different from that of other vehicles, leaving it to be understood that if they followed the same order as other vehicles, the Court would have no ground of action; yet this monopoly of the center of the street is, in the case of the Pendleton railway, forced upon the company by the order of the Court prohibiting them from laying a double track on which the cars could follow the regulations of other vehicles, and confining them to the center, and to what the Court calls an exclusive privilege and a monopoly; and the learned Judge has himself laid it down as a general principle, governing all these grants, that the Council may grant the use of the center of the street, but can not license the cars to run in the same order as other vehicles.

Thus the learned Judge first rules that the cars can occupy no other than an exceptional and exclusive position in the street, and then he decides that such a position is sufficient ground, whenever the Court in its wisdom and increasing light shall see fit to exercise it, for depriving them of all their rights and property.

The fact seems to have been lost sight of altogether in these railroad cases, that there is any public in the question, who are entitled to the use of their portion of the streets, and who elect to use them in these cars, as

they have a perfect right to do, and who have the right to such regulations as will best promote the general convenience.

These are what the City Council have undertaken to provide. They did not succeed perfectly, but improved in the grant to the Pendleton Company. But the Court seems entirely blind to any aspect of the case except as between the property-holders on one side, and the companies on the other. It is quite easy to say that a railroad corporation is a monopoly, but to arraign the great public as a monopoly because they ride on a street-car is a monopoly because they ride on a street-car through the center of the street, would almost seem absurd in the Superior Court.

A curiosity in political machinery is the recognition by the Charleston Convention of the right of a State Convention to instruct delegates elected by District Conventions how to vote. This was not assumed as a right by the State Conventions—their action was only advisory—but this is taken up by the National Convention and made binding on those delegations which have been so advised. Henceforth it will probably be a settled Democratic principle that the constituencies which elect delegates are subject to a higher power, which instructs the delegates how to act. One would suppose that the State Convention might as well elect the delegates as control their votes by this arrangement of a wheel within a wheel. It seems to have been a trick at Charleston to hold fast the Northern delegations who had been advised to vote for Douglas, and secure some of the Southern delegations who had not been advised by State Convention; but that such a practice should be established as Democratic, shows the strange associations into which political necessities bring the English language; it is also another instance of the tendency of all American politics to make that power supreme which is most central in its nature and furthest removed from the control of the people.

THE Japanese Embassy is to be introduced to New York civilization under the auspices of the Aldermen; twenty-five thousand dollars having been appropriated by the Council for their entertainment. If we may believe the New York papers of both parties, these Asiatics will thus fall into the hands of a gang of robbers, rowdies and shoulder-hitters, whose only idea of public hospitality is dragging strangers around among "the institutions"—the prisons, poor-houses, and other sores upon the body politic, winding up with gormandizing and brutal drunkenness. The Asiatics, punctilious as they are in the courtesies and refinements of life, will be just about as much at ease, enjoying this municipal hospitality as a country parson would in a Five Point dance-house. Yet as they have come for information of American civilization and institutions, perhaps it is just that they should see them in their real aspect, however unflattering to American character. The New York custom, however, of furnishing municipal hospitality to foreign visitors would be more honored in the breach than in the observance, and vastly more creditable to the country.

A very distressing change has come over those impalpable things called Democratic principles. But a short time ago, the term "internal" quite inadequate to express their inability, they were the same from the Penobscot to the Sabine; they have no North nor South, and a true Democrat could canvass Maine or South Carolina with the same documents in his saddle-bags. Differences about candidates were admitted to be possible, but there could be no dispute about Democratic principles.

Now, however, the party professes to be at the point of disruption, because it can not find out what the eternal principles of Democracy are, and the great contest at Charleston seems to be whether the platform shall have no principles at all or a new suit.

NEWSPAPER CHANGE.—The Dayton *Empire* has been sold by David Clark to J. R. Kelly & Co.; Mr. J. F. Bollmeyer, formerly of the Chillicothe *Advertiser* becoming the editor, and Frank Seaman, late of the Hillsboro *Gazette*, and a Cincinnati type, the superintendent of the mechanical department.

NEW BOOKS.

THE BIBLE AND SOCIAL REFORM, by H. T. TAYLOR, M. A. Philadelphia: James Chalmers & Son, 1891. Price, \$1.00. The religious literature of the present day is devoted mainly to the work of sustaining the Bible against the actual or supposed, or implied progress of unbelief. The defense is made in two ways, each of which is entirely inconsistent with the letter, and inconsistent with the spirit of the Bible. The religious literature of the present day is devoted mainly to the work of sustaining the Bible against the actual or supposed, or implied progress of unbelief. The defense is made in two ways, each of which is entirely inconsistent with the letter, and inconsistent with the spirit of the Bible.

The force of these two parties is neutralized by their antagonism, and which nothing can be more ingenious to the cause in which they profess to be enlisted. This weakness in the camp is curiously contrasted with the bigotry exhibited toward such as are without it. Unbelief is just as promptly censured, and as hotly persecuted, as if believers were able to argue how much and why to believe. And as the Bible, not God, is the matter in dispute, it is, socially, much more dangerous to doubt the authority of the former, than to deny the being of the latter. In other words, we are more jealous for the Bible than for the God of the Bible. There is a Bible idolatry, which sets the Bible away in an obscure corner, while it simultaneously wrangles with its inner, and persecutes with its outer.

The work before us takes the side of the literal inspiration—that "God spoke" the Scriptures "audibly, or inspired them in the words which are written in the books." To it he owes whatever he is more than a mere locomotive bundle of evil propensities labeled for eternal position. Virtue, sympathy, benevolence, progress, religion, civilization, even society itself, if it had not been revealed could never have existed. This is the mere twaddle of superstition; ignorance is a dishonorable to God as it is dishonorable to mankind. Such books, in the name of religion, teach mischief, which is indelible.

BERTHA PERCY, ON TEMPERANCE, by MARGARET CLARK, New York: A. S. Barnes & Burr, Cincinnati: Ricker, Mallory & Co.

Bertha Percy is a religious novel, the scene of which is laid in the United States—religion and social ideas being those which prevail in that part of the world.

POEMS, LYRICAL AND IDYLIC, by EDWARD CLARK, New York: A. S. Barnes & Burr, Cincinnati: Ricker, Mallory & Co.

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